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No. 06-1592

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SUPREME COURT U.S.

In The
Supreme Court of the United States

LTC DONALD SULLIVAN
Petitioner, *In Propria Persona* and *Sui Juris*

V

Carson Smith, individually and in his capacity as Sheriff of Pender County, North Carolina; Major Keith D. Hinkle and Captain Mark Sloan, individually and in their capacities as officers of the Sheriff's Department of Pender County, North Carolina; Deputy E.S. Wyrick, Jr., Deputy Corey Reed, Deputy Sam Gonzales, John Does I-IV; and Jane Doe, individually and in their capacities as officers of the Sheriff's Department of Pender County; Magistrate Delores R. Helms, individually and in her capacity as an officer of the court for the Fifth Judicial District of North Carolina,
Respondents

On Petition for Writ of Certiorari To The United States Court of Appeals For the Fourth Circuit

PETITION FOR REHEARING

LTC Donald Sullivan, *In Pro Per, Sui Juris*
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TABLE OF CONTENTS

INTRODUCTION 1

Reasons for Granting the Petition
for Rehearing 1

I. The Court should consider and grant this Petition for Rehearing because this Petition puts forth a "substantial ground not previously presented" in the Petition for Writ of Certiorari, to wit: The continuing denial of Petitioner's personal right to trial by jury in the State courts 1

II. The Court should consider and grant this Petition for Rehearing because this Petition puts forth a "substantial ground not previously presented" in the Petition for Writ of Certiorari, to wit: The Seventh Amendment to the Constitution is being cavalierly ignored by the lower US courts 5

Conclusion 10

Certificate, Rule 44.2 11

INTRODUCTION

Although Petitioner's petition for writ of certiorari lists several questions for review by the Court, Petitioner wants the Court to understand that it and this petition for rehearing only ask that one element of Constitutional justice be considered in this matter: Does the Petitioner have a Constitutionally guaranteed and protected right to a trial by jury in a civil case or controversy which must be respected by the judicial system, or is it now up to a judge to decide who gets a trial and who doesn't? From Petitioner's personal experience, the right to trial by jury seems to have become little more than a myth promulgated by high school civics teachers. The decision of the Fourth Circuit to sanction the denial of Petitioner's Constitutionally protected right to a trial by jury should not be allowed to stand. Therefore, he petitions this Court to reconsider his previously submitted Petition for Writ of Certiorari in this instant matter and offers the following statement in support.

Reasons for Granting the Petition for Rehearing

I. **The Court should consider and grant this Petition for Rehearing because this Petition puts forth a "substantial ground not previously presented" in the Petition for Writ of Certiorari, to wit: The**

continuing denial of Petitioner's personal right to trial by jury in the State courts.

Whereas, the obvious intent of the Petitioner in this matter is to reinstate that which has been lost, the authority of the United States Constitution as the "Supreme Law of the Land", it appears the Supreme Court of the United States (at the least, the justice who reviewed the subject filing) would rather have that Constitution left to be "overwhelmed by events and by time" as opined by the bench in *Sullivan, et al, v. United States, et al*, EDNC #CA-03-39-7-F, than to reinforce the mandates of it by affirming Petitioner's right to trial and to trial by jury.

Unfortunately, it would appear to be even so as witnessed by the recent arbitrary acts of the North Carolina judiciary in opinions on civil matters filed by this instant Petitioner. To wit:

A. In the matter of *Progress Energy Carolinas, Inc. v. Donald Sullivan*, case #05-CVS-471, Superior Court for New Hanover County, NC, Petitioner's demands for his right to a trial by jury under both the NC Constitution at Art. 1, Sec. 25, and the US Constitution at Amendment Seven, were denied by the court via summary dismissal with the result that his property rights were sacrificed at the whim of the court. Said matter was appealed by Petitioner and denied, with a petition for writ of certiorari currently in the works; and,

B. In the matter of *Sullivan v. County of Pender, et al*, case # 06-CVS-282, initially heard for trial September 17, 2007, and continued, Superior Court for Pender County, NC, Petitioner's demand for a trial by jury was denied, this in a property matter where the State has threatened to "tear down" Petitioner's homestead. Though the matter will be heard finally in the month of November, 2007, Petitioner's right to a trial by jury has already been sacrificed to judicial tyranny.

Obviously, the evidence presented in the instant petition combined with the evidence available to this Court and the public at large provides a *prima facie* case for the granting of a writ of certiorari in this matter and the subsequent hearing of the case by the Court. The lower courts are being allowed to act unilaterally without recognizing the Constitutional safeguards provided by our Founders for the rights of litigants. For the Court to deny certiorari in this matter places the Court in a position of duplicity and collusion with those who would have the Constitutional mandate for a guaranteed trial by jury disregarded.

Petitioner's own personal experience has shown the majority of the members of the legal profession are of the opinion the United States Constitution is "no longer applicable", "obsolete", "too open to interpretation", "anachronistic", or "should be completely rewritten". It is certain this lesson was learned either by the experience of these

licensed attorneys in the legal environment; or while these individuals attended their law schools of choice, most of which are, upon information and belief, funded and directed primarily by enemies of the Constitution, those who would like nothing better than to have an excuse to rewrite it. Rumor has it the new version has already been approved and awaits only the demise, or the scuttling, of the one we currently have, unless the recent legislative actions of the Congress have eliminated the necessity to convene a new constitutional congress. Even Jay Leno, whom some have said tongue in cheek is the purest source of real news, has stated in his monologue for the "Tonight Show", "I hear Mr. Bremer and the Iraqis are trying to find a good constitution. I say, why not give them ours. We haven't used it in 200 years!" There is more than an pinch of truth in this comedic comment.

Petitioner, like all other active and retired federal agents, including the members of this Court, took an oath to "support and defend the Constitution of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same." This petition is all about the Petitioner defending that oath. For the Court to deny petitioners' request is tantamount to its sanctioning the unlawful acts of those Respondents who violated their oaths and the courts which have grown accustomed to ignoring the mandates our constitutional chains place upon

them. It is up to this Court to protect those rights guaranteed the Petitioner by the Constitution, or they will be lost forever.

II. **The Court should consider and grant this Petition for Rehearing because this Petition puts forth a "substantial ground not previously presented" in the Petition for Writ of Certiorari, to wit: The Seventh Amendment to the Constitution is being cavalierly ignored by the lower US courts.**

To wit: In *Sullivan v. United States, supra*, Petitioner attempted to force the Congress to either sanction the Iraq invasion of 2003 by a formal declaration of war, or to force the President to prevent/suspend all military operations in the Iraq theater which were, or might have been, commenced under the authority of the joint resolution of Congress authorizing the President to use military force against Iraq. As we all know now in hind sight, this would have been most advantageous to the United States both then and now. Unfortunately, the bench chose to exercise its own individual color of law judicial authority by denying this Petitioner his right to a trial by jury and unilaterally dismissing said case without further adieu as moot and lacking merit on April 15, 2003. This action was justified by the court merely because the defendant and chief perpetrator (in the person of the President of the United States) of the fraud against the Constitution of the United States,

we the People, and the sovereign nation of Iraq announced on April 9, 2003, "Mission Accomplished" and "all major hostilities have ended". The court had no authority to disregard Petitioner's Constitutional right to a trial by jury, because only the Petitioner himself could allow that right to be waived. This example of judicial tyranny has already cost this nation over a trillion dollars along with the sacrifice of 4,000 dead and 40,000 wounded American service men and women, not to mention countless Iraqi dead and displaced, and the complete unsettling of the Middle East. Although it may be an extreme example, this case serves well the need for the right to a trial by jury in a civil matter to be preserved by this Court. It is up to a twelve-man jury of peers to allocate justice in a case or controversy, not a majority of one.

The attitude of the Court that the United States should abandon its duty to warrant the Constitutional guarantee of the right to a trial by jury is extremely frightening and bodes doom for any reasonable interpretation of the "Supreme Law of the Land" in the future by this Court. That this Court would so cavalierly subordinate to expediency and convenience that Constitution which it has sworn a sacred oath "to support and defend against all enemies foreign and domestic, and bear true faith and allegiance to the same", which Constitution protects Petitioners right to a trial by jury whether the judiciary likes it or not,

cannot be allowed to stand. For the Court not to grant this Petition for Rehearing would reinforce the conspiratorial demise of the Constitution. By not demanding the proper protection and recognition of our unalienable and organic law rights, especially the right to trial by jury, we allow the Constitution of "We the People" to become a mere hologram of liberty, easily adjusted and modified by judicial tyranny or congressional fiat, and one which must soon be replaced by another, less friendly, internationalist document. This new document will not protect the rights and privileges of the people, but will instead usurp those rights and use them to the people's detriment, providing them then only by license. It is only that guarantee of the rights to trial by jury and to bear arms, unfettered by the whims and desires of the judiciary, which will prevent such an occurrence.

It is imperative this Court take aggressive steps to reinstate the authority of the Constitution of the United States over the entity which it created, the United States of America, and over the subordinate States using the Supremacy Clause. As illustrated in the statements above, the "United States" of the Constitution no longer legally exists in fact, based upon the acts and doctrines as defined by the Legislative, the Executive, and the Judicial branches of government. What remains is merely an evil shadow of what was initiated. Unless this Court acts to save it, our Constitution

must go asunder; and the entity created by it shall cease to exist. It is now as it was then:

> "Governments are instituted among Men, deriving their just powers from the consent of the governed, -- That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness." (Declaration of Independence, 1776)

It is within the power of this Court to re-establish that Government laid on the foundations of principle and organization which seemed right in 1787 and seems just as right today. Failure to do this will result in this once great nation being subdued by her enemies and relegated to history, unless the People are prepared to exercise that authority described by Thomas Jefferson in the Declaration above. Unfortunately, the People are like sheep and will more likely react in the manner this same Mr. Jefferson described in his comments to the Virginia Legislature in 1784, just one year after the War for Independence had been won:

> "Our rulers will become corrupt, our People careless. The time for fixing every essential right on a legal basis is while our rulers are honest and ourselves united. From the conclusion of this war, we shall be

> going downhill. It will not then be necessary to resort every moment to the People for support. They will be forgotten, therefore, and their rights disregarded. They will forget themselves, but in the sole faculty of making money, and will never think of uniting to effect a due respect for their rights. The shackles, therefore, which will not be knocked off at the conclusion of the war, will remain on as long, will be made heavier and heavier, 'til our rights shall revive or expire in a convulsion."

Regardless which path we may take, the opportunity is before this Court to move this nation in the proper direction back to constitutional authority and responsible government as dictated by the Founders. If left unheeded it will not be without effect on our children yet unborn. The codes and traditions of the Declaration of Independence and the Constitution are the pillars of our people, and these pillars may not be struck with impunity. Though they be strong and a single blow will not damage them mortally, many blows will bring down even the strongest pillar. A single blow left unheeded encourages another. A deed disregarded is a deed encouraged. The petitioner prays this Court will not disregard and encourage these deeds and oversights committed by the judicial tyrants by further inaction. To do so can only be at the great peril of us all. The Court must settle once and for all time these questions of law by granting this petition for rehearing, so these unconstitutional

actions shall never more be allowed to threaten our Constitution and the great Constitutional republic for which it stands, one nation, under God. The right to a trial by jury in a civil matter is basic to the survival of our government as established. Continued disregard for this Supreme right of the people generally, and this Petitioner specially, will have disastrous consequences for the Republic.

Conclusion

For the reasons stated above, the petition for rehearing must be granted. Petitioner, therefore, pleads with the Court to acknowledge his undeniable Seventh Amendment right to a trial by jury in the lower court on this matter by granting his prayer for a writ of certiorari. Inasmuch as this very Court has stated in *Miranda v Arizona*, 384 U.S. 436, p 491, "Where rights secured by the Constitution are involved, there can be no ***rule making or legislation*** which would abrogate them." (emphasis added), this instant matter screams for relief. Any other decision by this Court can only serve to add fuel to the fire of resistance to the judicial tyranny of the United States and its now subservient lower courts until the kettle explodes, taking with it up to the fourth generation. This would be God's curse, not mine. In this, as all things, may His will be done.

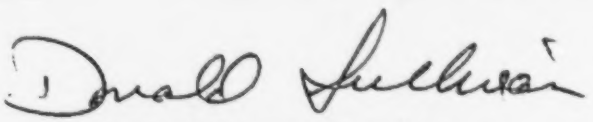
If we fail to protect our basic Constitutional rights under an attitude that "the Constitution has

been overwhelmed by events and by time...is not relevant", as the Congress, Executive and apparently, the Judicial branch has concluded, then what happened to Pakistan last week cannot be far away from happening in America.

[Note: Petitioner requests the Court provide him with written explanations should its decision be to deny his petition, if for no other reason than to allay fears that our government has lost its moorings.]

CERTIFICATE

I certify, pursuant to Supreme Court Rule 44.2, that this petition for rehearing is restricted to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented, and that it is presented in good faith and not for delay, this the 8th Day of November, In the Year of Our Lord, 2007.



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